

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA**

IN RE:)	
)	CASE NO.: 12-15995
WILLIAM L. SHELLS, SR.,)	CHAPTER 7
)	
Debtor.)	
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Oklahoma Employment Security)	
Commission,)	
Plaintiff,)	
v.)	ADVERSARY NO. 13-1025
)	
WILLIAM L. SHELLS, SR.,)	
Defendant.)	

MOTION FOR DEFAULT JUDGMENT

On March 18, 2013, Plaintiff, State of Oklahoma, ex rel. Oklahoma Employment Security Commission (the “Plaintiff”) filed the Complaint seeking the Court to determine that the Defendant’s debt to the OESC is non-dischargeable according to 11 U.S.C. Sec. 523(a)(2)(A) by finding that the Defendant was overpaid Unemployment Insurance Benefits to which Defendant was not entitled due to Defendant’s false representations to the Plaintiff (the “Complaint”). On May 10, 2013, the Clerk of the Bankruptcy Court entered an Entry of Default against the Defendant in accordance with Federal Rule of Civil Procedure 55(a), made applicable to adversary proceedings by Federal Rule of Bankruptcy Procedure 7055.

Because the Defendant failed to answer or appear in this proceeding and is in default under Federal Rule of Civil Procedure 55(a), the matters alleged in the Complaint are deemed true. The Plaintiff seeks judgment against the Defendant that in the amount of \$1,648.00, plus interest of \$65.92 thought January 9, 2013, plus post-judgment interest in the amount of 1% per month as allowed by state law, plus court costs pursuant to 11

U.S.C. Sec. 523(a)(2)(A). The Complaint alleges the following facts that are sufficient for the Court to grant a default judgment in favor of Plaintiff.

- a. Defendant applied for Unemployment Benefits.
- b. Defendant filed claims for benefits for the weeks of June 11, 2011, through November 19, 2011.
- c. Plaintiff based on Defendant's representation that Defendant was not employed paid Unemployment Benefits for the time periods mentioned above.
- d. Defendant willfully and intentionally failed to report employment and earnings during the time period mentioned above.
- e. Defendant's total debt to the Plaintiff through January 9, 2013, is \$1,648.00, plus interest of \$65.92.

WHEREFORE, the Plaintiff prays for judgment in favor of the Plaintiff and against the Defendant in the amount of \$1,648.00, plus interest of \$65.92 thought January 9, 2013, plus post-judgment interest in the amount of 1% per month as allowed by state law, plus court costs in the amount of \$293.00.

Dated this 24th day of May, 2013.

/s/Robert C. Newark, III
Robert C. Newark, III, OBA#21992
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ATTORNEY FOR PLAINTIFF

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 14 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May, 2013, a true and correct copy of the foregoing instrument was electronically served upon the following using the Court's CM/ECF system:

Robert C. Newark, III, Attorney for OESC

Further, I certify that on the 24th day of May, 2013 a true and correct copy of the foregoing instrument was forwarded via U.S. Mail, first class postage prepaid and properly addressed, to the following at the addresses shown below:

William Lee Shells, Sr.
6100 SE 84th Street
Oklahoma City, OK 73135

/s/Robert C. Newark, III
Robert C. Newark, III, OBA#21992